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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/008,259
Filing Date: October 29, 2001
Appellant(s): SMITH ET AL.

Steven T. McDonald
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 08/14/2008 appealing from the Office action

mailed 01/09/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2001/0049620   BLASKO   12-01

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1 and 13 recite "generating a user identifier key from the key data and generating a user profile history from the extracted profile data in response to the key data corresponding to a key stored in the memory and the extracted profile data failing to correlate to the user profile history stored in the memory in association with the key stored in the memory; storing the generated user identifier key in the memory; and storing the generated user profile history in the memory in association with the generated user identifier key and the key to which the key data corresponded so the generated user profile history is associated with a user that is different than a user associated with the user profile history stored in association with the key stored in memory to which the key data corresponded. Said limitation is indefinite because it is not clear how the generated user identifier key indicates that the generated user profile history is associated with a user that is different from a user associated with the key stored in the memory. For purpose of art rejection, said limitation would be interpreted as simply storing in memory a user profile using a key identifier, comparing said stored profile with a generated profile by comparing said

stored profile with the generated profile and if there is a correlation between said

profiles, merging said profiles but if there is no correlation between said profiles then

generating a new profile with a new identifier.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form

the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-24 are rejected under 35 U.S.C. 102(e) as being anticipated by <u>Blasko</u>

(US 2001/0049620).

As per claim 13, <u>Blasko</u> teaches:

A method for profiling different users having a common terminal identifier

comprising:

storing user profile histories in a memory, each user profile history being stored

in the memory (see paragraph 53) in association with a key (see paragraph 19

"transaction identifier of the server generating the profile vector that in television

environment may be the MAC ID for the Set top box").

receiving the user activity data at a server from clients over a computer network (see paragraph 87 "profile vector from web browsing activities of the user or frequency of channel changes");

receiving user activity data from the server (see paragraph 53);

extracting profile data from the user activity data (see paragraph 96);

searching the user activity data for key data that identifies one of a user terminal and a user account (see paragraphs 133, 113 "random ID or MAC-ID"; paragraph 116 "profile vectors may be tracked by virtual identifiers such as a random ID and this ID may act as a profile vector identifier");

determining whether the key data located in the user activity data corresponds to a key stored in the memory (see paragraphs 130-131 "evaluator may use one or more pieces of deterministic information identifying user's identity. For example, the profile vector may include the MAC ID of the transmitting Set top box. The evaluator communicates to a secure correlation server for correlating the user identification with the previously stored profile vector information");

generating a user identifier key (i.e. "profile ID") from the key data and generating a user profile history (i.e. "profile vector") from the extracted profile data in response to the key data (i.e. "transaction ID") corresponding to a key stored in the memory and the extracted profile data failing to correlate to the user profile history stored in the memory in association with the key stored in the memory (see paragraph 130 "correlation server for correlating the user identification with the previously stored profile vector information"); storing the generated user identifier key in the memory (see paragraph 53

"profile ID"); and storing the generated user profile history in the memory in association with the generated user identifier key and the key to which the key data corresponded so the generated user profile history is associated with a user that is different than a user associated with the user profile history stored in association with the key stored in memory to which the key data corresponded but both the generated user profile history and the user profile history stored in the memory are associated with the key that corresponded to the key data (see paragraph 107). Blasko teaches that each transaction (television viewing over predetermined period) is recognized by a profile ID (i.e. generated user identifier key; see paragraph 21) and the MAC-ID (i.e. key or identifier of the server generating the profile vector; see paragraph 20) of the set top box. The current profile vector generated with the profile ID is compared with previously stored profile vector to select suitable advertisements using collaborative filtering techniques (see paragraph 21) and based on the identifying attributes in the profile Ids (i.e. transaction ID, transaction level, profiling content' see figure 3, paragraph 72), sets of profiles are linked or correlated (see paragraph 66). Therefore, Blasko correlates the profile ID attributes from generated profile vector to stored archive profile vector and when there is a correlation, Blasko merge the generated profile vector with the stored profile vector but when there is no correlation, Blasko generates new profile vector.

As per claim 14, Blasko teaches:

wherein the profile data is extracted from session data (see paragraph 96).

As per claim 15, Blasko teaches:

wherein the profile data is extracted from browse period data (see paragraphs 96 and 117).

As per claim 16, <u>Blasko</u> teaches:

the determination that the key data corresponds to a key stored in the memory includes: comparing a site identifier (i.e. URL accesses; paragraph 97) and a resource identifier (i.e. identifier for the server generating the profile vector where in television would be the MAC ID for the STB; see paragraph 20; "cookies" see paragraph 97) in the extracted profile data with the site identifiers and resource identifiers in user profile histories stored in the memory (see paragraphs 67 and 72). In <u>Blasko</u>, based on the identifying attributes in the profile ID (i.e. transaction ID, such as MAC ID (i.e. resource identifiers), profiling content such as URL access (i.e. site identifier) sets of profiles are linked or correlated (see paragraph 66).

As per claim 17, <u>Blasko</u> teaches:

the comparison of the site identifier and the resource identifier in the extracted profile data to site identifiers and resource identifiers in user profile histories further comprising:

detecting a low level of correspondence between the site identifier and the resource identifier of the extracted profile data and the site identifiers and resource identifiers in a user profile history stored in the memory (see paragraphs 130-131). <u>Blasko</u> teaches comparing an actual profile vector with archived profile vectors and based upon a correlation rule (i.e. level of correspondence) said actual profile vector may be further modified by utilizing this type of correlation (see paragraph 150).

As per claim 18, <u>Blasko</u> teaches:

wherein the profile data extraction extracts metadata associated with the site identifier and the resource identifier in the extracted profile data (see paragraph 117).

As per claim 19, <u>Blasko</u> teaches:

identifying a user at a terminal identified by a computer identifier that generated the user activity data received by the server (i.e. MAC ID "identifier for the computer generating the profile vector"; see paragraph 52) by determining which one of at least two user profile histories, each of which is stored in the memory in association with a key, each key being associated with the computer identifier (i.e. "transaction ID") corresponds with the extracted profile data and selecting an advertising file for transmission to the terminal, the selected advertising file corresponding to the identified user (see paragraphs 20, 21, 87, 130).

As per claim 20, <u>Blasko</u> teaches:

wherein the comparison of site identifiers in the extracted profile data and the user profile histories stored in the memory compares cookies (see paragraphs 92, 96 and 148).

As per claim 21, <u>Blasko</u> teaches:

wherein the comparison of site identifiers in the extracted profile data and the user profile histories stored in the memory compares Internet Protocol (IP) addresses (i.e. identifier for the server generating the profile vector where in television would be the MAC ID for the STB; see paragraph 20" and in the Internet is the IP address of the user computer see paragraph 13).

As per claim 22, <u>Blasko</u> teaches:

wherein the profile data extraction extracts a subscriber identifier that identifies a subscriber site on a cable television network (see paragraph 52 "in television environment the transaction ID may be a MAC_ID for the Set top box").

As per claim 23, <u>Blasko</u> teaches:

wherein the profile data extraction extracts a tuned channel identifier and metadata, the tuned channel identifier identifying a transmission channel to which a receiver is tuned at the identified subscriber site and the metadata identifies program content on the tuned channel (see paragraphs 104, 105, 121, 150).

As per claim 24, <u>Blasko</u> teaches:

identifying a user at the subscriber site identified by the subscriber identifier by determining which one of at least two user profile histories (see paragraph 52 "more than one transaction for the same user are observed and analyzed, the profile vectors are assigned a profile ID"), each of which is stored in the memory in association with a key (i.e. "profile ID"), each key being associated with the subscriber identifier for the subscriber site at which the user tuned the channel (see paragraph 45 "channel selection"), corresponds with the extracted profile data (see paragraph 45) and selecting an advertising file for transmission to the subscriber site, the selected advertising file corresponding to the identified user (see paragraph 150) .

Claims 1-12 are system claims which contains the same limitations as claims 13-24.

(10) Response to Argument

The Appellant argues in pages 9-10 of the Brief with respect to the Section 112 second paragraph rejection that claims 1 and 13 are not indefinite because it is clear from the claims, according to the Appellant, that a key comprises data, e.g. cookie data, an IP address, a subscriber identifier, etc that identifies a terminal or account through which a user accesses the network application and further, if an additional user is detected for a key, the profile generates a new profile and corresponding key. The Appellant further argues that the test for definiteness under Section 112 second paragraph is whether those skilled in the art would understand what is claimed when the claim is read in light of the specification and according to the Appellant, those skilled in the art would understand that the generated user identifier key indicates that the generated user profile is associated with a user that is different from a user associated with the key stored in the memory because there would be no purpose or reason for generating a key that does not differ from the existing key. The Examiner answers that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Nowhere, in Appellant's claims 1 and 13 is recited anything about that a key comprises data such as cookie, an IP address, a subscriber identifier and furthermore, nowhere in Appellant's claims 1 and 13 is recited that "user identifier key indicates that the generated user profile is associated with a user that is different from a user associated with the key stored in the memory because there would be no purpose or reason for generating a key that does not differ from the existing key".

Appellant's claims 1 and 13 are rejected under Section 112 second paragraph because

it is not clear from the Appellant's claims the relationship between "key data", "key" and

"user identifier key". Furthermore, the Appellant did not challenge the Examiner

interpretation of claims 1 and 13 given in said Section 112 second paragraph rejection.

Therefore, for purpose of art rejection, claims 1 and 13 are interpreted in light of

Appellant's specification (see pages 19 and 20) as simply meaning storing in memory a

user profile using a key identifier, comparing said stored profile with a generated profile

by comparing said stored profile with the generated profile and if there is a correlation

between said profiles, merging said profiles but if there is no correlation between said

profiles then generating a new profile with a new identifier.

The Appellant argues in pages 11-13 with respect to claim 13 that Blasko does

not teach "generating a user identifier key from the key data and a user profile history

from the extracted profile data in response to the key data corresponding to a key

stored in memory and the extracted profile data failing to correlate to the user profile

history stored in the memory in association with the key stored in the memory" because

according to the Appellant, Blasko only describes correlating a user ID with stored

profile information and furthermore, Blasko according to the Appellant, does not

describes generating a profile ID from the transaction ID and profile vector from

extracted profile data in response to the transaction ID corresponding to a profile ID

stored in memory and the profile data failing to correlate to the profile vector stored in

the memory in association with the profile ID stored in memory. Thus according to the

Appellant, Blasko is precluded from disclosing a method of generating a user identifier

from key data and a user profile history from extracted profile data in response to key data corresponding to a key stored in memory and the extracted profile data failing to correlate to the user profile history stored in the memory in association with the key.

The Examiner answers that the Appellant is arguing about limitation not stated in the claims when he argues that <u>Blasko</u> does not teach generating a profile ID from the transaction ID and profile vector from extracted profile data in response to the transaction ID corresponding to a profile ID stored in memory and the profile data failing to correlate to the profile vector stored in the memory in association with the profile ID stored in memory. Appellant's claims simply recite "generating a user identifier from key data and a user profile history from extracted profile data in response to key data corresponding to a key stored in memory and the extracted profile data failing to correlate to the user profile history stored in the memory in association with the key" which is interpreted in light of Appellant's specification as simply meaning storing in memory a user profile using a key identifier, comparing said stored profile with a generated profile by comparing said stored profile with the generated profile and if there is a correlation between said profiles, merging said profiles but if there is no correlation between said profiles then generating a new profile with a new identifier. <u>Blasko</u> teaches generating a profile vector based upon evaluation of user's activity data (see paragraphs 42, 43), where said profile vector is made up of a profile ID and actual profiling content (See paragraph 72). <u>Blasko</u> teaches that the profile ID comprises a transaction ID (see figure 3), where said transaction ID may be a terminal ID (see paragraph 20 "MAC_ID for the set top box"), and other profiling content such as user's

deterministic information such as identification data (i.e. "name, social security" see

paragraphs 72-73, 119). Blasko teaches that after a recently generated user's current

profile vector is assigned a transaction ID, the profile vector having said transaction ID

is evaluated for the purposes of selecting a suitable targeted advertisement presented

to the user and this evaluation is based upon comparing the current user's generated

profile vector having said assigned transaction ID against previously stored profile

vectors and in instances when one or more transaction from the same user are

observed and analyzed, the user's profile vectors are assigned a profile ID, stored in a

storage medium and indexed by the profile ID (see paragraph 21). Furthermore, Blasko

teaches that when currently user's generated profile vector comprises feedback on

advertisements presented to a user (i.e. "measuring user's clicks on different web

pages"; see paragraphs 60-61), Blasko correlates the currently user's generated profile

vector with previously stored profile vectors using deterministic information (i.e. user's

identification or demographic information) contained in the profile vectors, as Blasko

teaches in figure 7 and paragraph 130 that if one or more deterministic feature are

present (i.e. user's identification data) in a profile vector, said deterministic pieces of

information may be used to link the current generated profile vector data to the profile

vectors stored in local database (see paragraph 142), where said correlation is used to

update said user's previously stored profile vectors with such feedback information (see

paragraph 62) obtained from currently generated user's profile vector. Thus, in Blasko

due to said updating the success rate of a particular type of advertisement is linked

back to a user and this information may be stored in a local database that would help in

identifying the type of advertisements that are of interest to the user and have been successful in the past (see paragraph 145). Furthermore, Blasko teaches that an evaluator 702 communicates to a secure correlation server 708 for correlating the user identification with the previous stored profile vector information, where this correlation helps to identify the user's preferences and interests and thus assist in providing one or more advertisements to the user (see paragraph 130). Therefore, contrary to Appellant's argument, Blasko teaches Appellant's claimed invention as Blasko generates a profile vector from activity data (i.e. transaction activity), assigns said profile vector a transaction ID (i.e. user identifier key), compares said currently generated profile vector with previously stored profile vector and if there is a correlation between said currently generated user's profile vector and previously stored profile vectors (i.e. same identification or demographic profile data, such as the same name, address, social security number), Blasko updates said previously stored profile vector with the information of the currently generated user's profile vector and assigns said updated user's profile vector stored in a local database a profile ID (i.e. key) which would be used to correlate generated profile vectors with the stored profile vectors and therefore, helps to identify the type of advertisements that are of interest to the user and have been successful in the past. However, in Blasko, if the currently generated user's profile vector do not correlate to a previously stored profile vector, Blasko teaches identifying said currently generated user's profile vector with said currently generated profile vector's transaction ID (i.e. user identifier key; terminal identifier "MAC_ID") but not linking or merging said currently user's generated user's profile vector with previously

stored profile vector and using said transaction ID to transmit an advertisement to the

origination computer (See paragraphs 133 and 142). Therefore, contrary to Appellant's

argument, Blasko teaches generating a user identifier from key data (i.e. transaction ID)

and a user profile history from extracted profile data (i.e. currently user's generated

profile vector) in response to key data corresponding to a key stored in the memory (i.e.

transaction ID "Mac_ID" see paragraph 57) and the extracted profile data failing to

correlate to the user profile history because the deterministic profile data in a currently

user's generated profile vector do not correlate with the deterministic profile data

contained in a previously stored profile vector and therefore, said currently generated

profile vector is identified by its transaction ID (i.e. user identifier key) and is not linked

and merged to a previously stored profile vector. Therefore, contrary to Appellant's

argument, Blasko teaches Appellant's claimed invention.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the

Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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